

JOHN L. BURRIS, Esq./ State Bar #69888
BENJAMIN NISENBAUM, Esq./ State Bar #222173
LAW OFFICES OF JOHN L. BURRIS
Airport Corporate Centre
7677 Oakport Street, Suite 1120
Oakland, California 94621
Telephone: (510) 839-5200
Facsimile: (510) 839-3882

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

T.P., a minor, by and through her guardian ad
litem, ANDREA CASTILLO; J.P., a minor, by
and through his guardian ad litem, ANDREA
CASTILLO; JOSE PEREZ, Sr., individually and
as personal representative of the Estate of Jose
Perez, Jr.; GRACIELA PEREZ, individually and
as personal representative of the Estate of Jose
Perez, Jr.,

Plaintiffs,

vs.

CITY OF SAN LEANDRO, a municipal
corporation; JOSEPH KITCHEN, in his official
capacity as Chief of Police for the CITY OF
SAN LEANDRO; N. CORTI, individually and
in his official capacity as a police officer for the
CITY OF SAN LEANDRO; T. DEGRANO,
individually and in his official capacity as a
police officer for the CITY OF SAN
LEANDRO; J. MOLETTIERI, individually and
in his official capacity as a police officer for the
CITY OF SAN LEANDRO; R. MCMANUS,
individually and in his official capacity as a
police officer for the CITY OF SAN
LEANDRO; T. OVERTON, individually and in
his official capacity as a police officer for the
CITY OF SAN LEANDRO; R. THOMPSON,
individually and in his official capacity as a
police officer for the CITY OF SAN
LEANDRO; F. GROVE, individually and in his
official capacity as a police officer for the
(caption continues on following page)

Case No. C 06 06009 CRB

**STIPULATION AND ~~PROPOSED~~ ORDER
FOR LEAVE TO FILE FIRST AMENDED
COMPLAINT**

CITY OF SAN LEANDRO; J. TEIXEIRA,
individually and in his official capacity as a
police officer for the CITY OF SAN
LEANDRO; M. NEMETH, individually and in
his capacity as a police officer for the CITY OF
SAN LEANDRO; M. MAREZ, individually and
in his capacity as a police officer for the CITY
OF SAN LEANDRO; DOES 1-25, inclusive,
individually and in their capacities as police
officers for the CITY OF SAN LEANDRO,

Defendants.

WHEREAS PLAINTIFFS TIMELY FILED a Complaint in this matter alleging various
causes of action, including violation of 42 U.S.C. section 1983 and ancillary state law causes of
action, and timely served the Complaint upon Defendants; and Defendants, in lieu of filing an
Answer, subsequently timely filed a motion to dismiss under FRCP 12(b)(6) and 12(e), the parties
hereby stipulate as follows:

- 1) Plaintiffs shall file a First Amended Complaint within 14 days from the Court's Order
granting the instant Stipulation Requesting Leave to File a First Amended Complaint;
- 2) Plaintiffs First Amended Complaint shall clarify causes of action brought under 42
U.S.C. section 1983, such that Plaintiffs section 1983 claims are clearly premised
upon violation of the Fourth Amendment by use of excessive force and wrongful
death, and violation of the Fourteenth Amendment only as to interference with
Plaintiffs' familial relationship with decedent.

Respectfully submitted,

Dated: November 3, 2006

The Law Offices of John L. Burris

_____/s/_____
John L. Burris, Attorney for Plaintiff

Dated: November 13, 2006

Meyers, Nave, Riback, Silver & Wilson

_____/s/_____
Tricia Hynes, Attorney for Defendants

ORDER

PURSUANT TO THE PARTIES' STIPULATION, Plaintiffs shall file a First Amended Complaint according to the terms of the Parties' Stipulation herein.

IT IS SO ORDERED.

Dated: November 15, 2006

